

R277-516 WAS APPROVED BY THE UTAH STATE BOARD OF EDUCATION ON FIRST AND SECOND READING ON SEPTEMBER 11, 2009 AND IS SCHEDULED FOR FINAL APPROVAL BY THE BOARD ON OCTOBER 2, 2009.

R277. Education, Administration.

R277-516. Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees.

R277-516-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the database maintained on all licensed Utah educators. The database includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information;
- (6) completion of employee background checks; and
- (7) a record of disciplinary action taken against the educator.

C. "DPS" means the Department of Public Safety.

[B]D. "Licensed educator" means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, USOE and school district specialists). A licensed educator may or may not be employed in a position that requires an educator license. Licensed educators include individuals who are student teaching, who are in alternative routes to licensing programs or positions and individuals who hold district- or charter school-specific licenses.

[E]E. "Public education employer" means the education entity that hires and employs an individual, including public school districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

[D]F. "USOE" means the Utah State Office of Education.

R277-516-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Sections 53A-1-301(3)(a) and 53A-1-301(3)(d)(x) which instructs the State Superintendent of Public Instruction (Superintendent) to perform duties assigned by the Board that include presenting to the Governor and the Legislature each December a report of the public school system for the preceding year that includes investigation of all matters pertaining to the public schools, and statistical and financial information about the school system which the Superintendent considers pertinent; and by Sections 53A-1-402(1)(a)(i) and (iii) which direct the Board to establish rules and minimum standards for

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the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services, and the evaluation of instructional personnel.

B. The purpose of this rule is ensure that all students who are compelled by law to attend public schools, subject to release from school attendance consistent with Section 53A-11-102, are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

R277-516-3. Licensed Public Education Employee Personal Reporting of Arrests.

A. A licensed educator who is arrested for the following alleged offenses shall report the arrest within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director or designee:

(1) any matters involving arrests for alleged sex offenses;
(2) any matters involving arrests for alleged drug-related offenses;

(3) any matters involving arrests for alleged alcohol-related offenses; and

(4) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

B. A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

C. The district superintendent, charter school director or designee shall report conviction, arrest or offense information received from licensed educators to the USOE within 48 hours of receipt of information from licensed educators. The USOE shall develop an electronic reporting process on the USOE website.

D. The licensed educator shall report for work following the arrest and notice to the employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

R277-516-4. Non-licensed Public Education Employee Background Check Policies.

A. School districts and charter schools shall adopt policies for non-licensed public education employee background checks that include at least the following components:

(1) periodic background checks of non-licensed employees;
(2) non-licensed employees shall submit to criminal background checks at least every six years;

[E]B. School district and charter school policies shall determine the background check process necessary based on the non-

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licensed employee's assignment.

[D]C. School districts and charter schools shall submit to the Utah Department of Public Safety a complete list of non-licensed employees including names, dates of birth, and social security numbers.

R277-516-5. Non-licensed Public Education Employee Arrest Reporting Policy Required from School Districts and Charter Schools.

A. School districts/charter schools shall have a policy requiring reporting of designated offenses by non-licensed public employees and all employees who drive motor vehicles as an employment responsibility.

B. School districts/charter schools shall have an employee reporting policy for non-licensed employees adopted in an open board meeting no later than September 15, 2009. The policy shall be available on the school district/charter school website or provided to the USOE or both.

C. The policy shall include the following minimum components:

(1) reporting of the following:

(a) convictions, including pleas in abeyance and diversion agreements;

(b) any matters involving arrests for alleged sex offenses;

(c) any matters involving arrests for alleged drug-related offenses;

(d) any matters involving arrests for alleged alcohol-related offenses; and

(e) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

(2) a timeline for receiving reports [~~required under R277-516-3B from licensed educators who drive as an employment assignment and from other~~] from non-licensed public education employees;

(3) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

(4) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

(5) adequate due process for the accused employee consistent with Section 53A-3-410(10);

(6) a process to review arrest information and make employment decisions that protect both the safety of students and the confidentiality and due process rights of employees;

(7) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees. Records shall:

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(a) include final administrative determinations and actions following investigation; and

(b) be maintained only as necessary to protect the safety of students and with strict requirements for the protection of confidential employment information.

R277-516-6. Public Education Employer Responsibilities Upon Receipt of Arrest Information from Employees.

A. A public education employer that receives arrest information about a licensed public education employee shall review arrest information and assess the employment status consistent with Section 53A-6-501, R277-515, and the school district/charter school's policy.

B. A public education employer that receives arrest information about a non-licensed public education employee shall review arrest information and assess the employee's employment status considering the non-licensed public education employee's assignment and consistent with a local board-approved policy for ethical behavior of non-licensed employees.

C. A local board shall provide appropriate training to non-licensed public education employees about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees.

D. A public education employer shall cooperate with the USOE in investigations of licensed educators.

R277-516-7. USOE Responsibility for Review of Arrest/Conviction Information ~~[from Licensed Educators]~~ Regarding Current or Prospective Licensees.

A. The USOE shall review self-disclosure reports received from ~~[licensed educators]~~ public education employers who received the information from licensed educators pursuant to this rule, or reports from DPS regarding arrests/convictions of current or prospective licensees in a timely manner.

~~[B. The USOE shall investigate information received from educators under this rule consistent with procedures under Section 53A-6-401 and R686-100.~~

~~C. The USOE shall cooperate with school districts/charter schools in the investigative and disciplinary process.]~~

B. The USOE shall:

(1) require the current or prospective licensee to immediately submit his fingerprints to DPS for a background check;

(2) place a flag on the licensee's CACTUS file indicating a background check issue;

(3) evaluate, after consultation with the public education employer and consistent with procedures under Section 53A-6-401 and

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R686-100, for potential licensing action.

KEY: school employees, self reporting

Date of Enactment or Last Substantive Amendments: [~~August 7,~~]2009

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3;
53A-1-301(3)(a); 53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-
402(1)(a)(iii)**